

SEP 12 2005

## WOOD, HERRON &amp; EVANS, L.L.P.

BRUCE TITTEL  
DONALD F. FREI  
DAVID S. STALLARD  
J. ROBERT CHAMBERS  
GREGORY J. LUNN  
KURT L. GROSSMAN  
CLEMENT H. LUKEN, JR.  
THOMAS J. BURGER  
GREGORY F. AHRENS  
WAYNE L. JACOBS  
KURT A. SUMME  
KEVIN G. ROONEY  
KEITH R. HAUPT  
THEODORE R. REMAKLUS  
THOMAS W. HUMPHREY  
SCOTT A. STINEBRUNER  
DAVID H. BRINKMAN  
BEVERLY A. LYMAN, PH.D.  
KRISTI L. DAVIDSON

OF COUNSEL  
JOHN D. POFFENBERGER  
DAVID J. JOSEPHIC  
THOMAS W. FLYNN  
J. DWIGHT POFFENBERGER, JR.  
BRADLEY D. BECK

2700 CAREW TOWER

441 VINE STREET

CINCINNATI, OHIO 45202-2817

TELEPHONE: 513-241-2324

FACSIMILE: 513-241-6234

WEBSITE: www.whepatent.com

PATENT, TRADEMARK, COPYRIGHT  
AND UNFAIR COMPETITION LAW  
AND RELATED LITIGATION

EDMUND P. WOOD 1923-1968  
TRUMAN A. HERRON 1935-1976  
EDWARD B. EVANS 1936-1971

September 12, 2005

JOSEPH R. JORDAN  
C. RICHARD EBY

KATHRYN E. SMITH  
P. ANDREW BLATT, PH.D.  
DAVID E. JEFFERIES  
WILLIAM R. ALLEN, PH.D.  
JOHN PAUL DAVIS  
DOUGLAS A. SCHOLER  
BRETT A. SCHATZ  
DAVID W. DORTON  
SARAH OTTE GRABER  
STEVEN W. BENINTENDI, PH.D.  
RANDALL S. JACKSON, JR.

TECHNICAL ADVISORS  
HENRY M. LABODA, PH.D.

## FACSIMILE COVER SHEET

To: Examiner Peter J. Vrettakos  
Group Art Unit: 3739  
Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Fax: (571) 273-8300

From: William R. Allen, Ph.D.

Re: US Application Serial No. 10/072,610  
Filed February 6, 2002  
Title: HANDPIECE FOR  
TREATMENT OF TISSUE  
Applicants: Stern, et al.  
Atty Docket: 39238-0747 (THERM-06)

Pages: 29 (including cover sheet)

## MESSAGE/COMMENTS

Please see the attached Amendment Transmittal (in duplicate) and Amendment Under 37 CFR §1.111 for filing in connection with the above-referenced application.

The information in this facsimile message is ATTORNEY-CLIENT PRIVILEGED, WORK PRODUCT and/or CONFIDENTIAL INFORMATION intended only for the use of the individual or entity to whom this message is addressed. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution or reproduction of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via mail. Thank you. If transmission is interrupted or of poor quality, please notify us immediately by calling (513) 241-2324 and ask for the sender's assistant. OUR FAX NUMBER IS (513) 241-6234.

**RECEIVED  
CENTRAL FAX CENTER**

SEP 12 2005

**PATENT**

I hereby certify that this correspondence is being sent via  
facsimile transmission to: Mail Stop Amendment,  
Commissioner for Patents, P.O. Box 1450, Alexandria, VA  
22313-1450, Attention: Examiner Peter J. Vrettakos; Fax  
Number: (571) 273-8300 on September 12, 2005.

William R. Allen

William R. Allen, Reg. No. 48,389

12 September 2005

Date

Applicants: Stern et al.  
Serial No: 10/072,610  
Filing Date: February 6, 2002  
Art Unit: 3739  
Examiner: Peter J. Vrettakos  
Confirmation No.: 2778  
Title: HANDPIECE FOR TREATMENT OF TISSUE  
Atty Docket: 39238-0747 (THERM-06)

Cincinnati, OH

September 12, 2005

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**AMENDMENT TRANSMITTAL**

1. Transmitted herewith is an amendment for this application.
2.  X  Small Entity status is claimed.  
      Other than a Small Entity.
3. The fee has been calculated as shown below:

09/13/2005 MBINAS 00000029 233000 10072610  
01 FC:2253 510.00 DA

(Col. 1)		(Col. 2)		(Col. 3)	SMALL ENTITY		LARGE ENTITY	
Claims Remaining After Amendment		Highest No. Previously Paid For		Extra	Present Rate	Fee	Present Rate	Fee
TOTAL	57	MINUS	111	= 0	x \$25	\$0	x \$50	\$0
INDEP.	2	MINUS	3	= 0	x \$100	\$0	x \$200	\$0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+\$180	\$0	+\$360	\$0
TOTALS					TOTAL FEE	\$	TOTAL FEE	\$0

- ☆ If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- ☆☆ If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
- ☆☆☆ If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid for" (Total or Independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment or the number of claims originally filed.

XX No additional fee for claims is required.

4. Attached is a check in the sum of \$\_\_\_\_\_.

\_\_\_\_ Please charge my Deposit Account No. 23-3000 in the amount of \$0. A duplicate copy of this sheet is attached.

5. The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply.

Complete (a) or (b) as applicable.

- (a) XX Applicant petitions for an extension of time under 37 CFR 1.136 for the total number of months checked below:

	Extension (months)	Fee for other than small entity	Fee for small entity
___	one month	\$ 120.00	\$ 60.00
___	two months	\$ 450.00	\$225.00
<u>XX</u>	three months	\$1,020.00	\$510.00
___	four months	\$1,590.00	\$795.00
___	five months	\$2,160.00	\$1,080.00

\_\_\_ Attached is a check in the amount of \$\_\_\_ for the \_\_\_ month extension fee as required by 37 C.F.R. § 1.17(c)

XX Please charge my Deposit Account No. 23-3000 in the amount of \$510.00 . A duplicate copy of this sheet is attached.

If an additional extension of time is required, please consider this a petition therefor.

(Check and complete the next item, if applicable)

\_\_\_ An extension for \_\_\_ months has already been secured and the fee paid thereof of \$\_\_\_ is deducted from the total fee due for the total months of extension now requested. Extension fee due with this request \$\_\_\_.

OR

(b)\_\_\_ Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

XX If any additional fee for claims or extension of time is required, charge Account No. 23-3000. A duplicate of this transmittal is attached.

Respectfully submitted,  
WOOD, HERRON & EVANS, L.L.P.

William R. Allen  
William R. Allen  
Reg. No. 48,389

2700 Carew Tower  
Cincinnati, Ohio 45202  
(513) 241-2324

I hereby certify that this correspondence is being sent via facsimile transmission to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Facsimile Number: (571) 273-8300; Attention: Examiner Peter J. Vrettakos on September 12, 2005.

William R. Allen  
William R. Allen, Reg. No. 48,389

12 September 2005  
Date

PATENT

RECEIVED  
CENTRAL FAX CENTER

SEP 12 2005

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Stern et al. Confirmation No.: 2778  
Serial No.: 10/072,610  
Filed: February 6, 2002  
Examiner: Peter J. Vrettakos  
Art Unit: 3739  
Title: **HANDPIECE FOR TREATMENT OF TISSUE**  
Attorney Docket: 39238-0747 (THERM-06)

Cincinnati, Ohio 45202

September 12, 2005

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**AMENDMENT UNDER 37 CFR § 1.111**

In response to the non-final Office Action mailed on March 11, 2005, please amend the above-identified application as follows:

Amendments to the specification begin on page 2 of this paper.

Amendments to the claims are reflected in the listing of claims that begins on page 3 of this paper.

Remarks begin on page 12 of this paper.

-1-